

REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1, 2, 3 and 5 are pending in this application. Claim 4 was previously cancelled. Claims 1, 2 and 3 are currently amended.

Claim 1 has been amended to recite the amount of potassium chloride, as supported in the present specification, including at page 13, lines 11-12.

Claim 2 has been amended to improve language antecedence with base claim 1 by referring to the sodium lignosulfonate surfactant.

Claim 3 has been amended as shown above to ensure that the amendments to claim 3, as stated in the Amendment filed July 31, 2009, are of record.

No new matter has been added.

The applicant respectfully traverses the rejection of claims 1, 2 and 5 under 35 USC 103(a) over Bramati et al. in view of Suzuki and in further view of Nakayama et al.

The applicant further traverses the rejection of claim 3 under 35 USC 103(a) over Bramati in view of Suzuki and Nakayama in view of Suzuki '926.

These references do not make the presently claimed invention to be obvious.

In the Office Action dated November 23, 2009, page 7, last paragraph, the Examiner commented upon the results set forth in the Rule 132 Declaration filed July 31, 2009, stating that only "Sample 1 demonstrates an unexpected result" of rapid dispersibility. Sample 1 represented the composition of claim 1, except for reciting the amount of potassium chloride to be about 10% by weight of the total composition.

Claim 1 has been amended as shown above to recite the amount of potassium chloride to be about 10% by weight and thus make claim 1 to be commensurate in scope with the Examiner's finding of new and unexpected results in the Rule 132 Declaration filed July 31, 2009.

Accordingly, the applicant submits that the presently claimed invention is fully allowable under 35 USC 103(a) in view of the prior art.

Bramati et al. is directed to dispersing agents containing a combination of a lignosulfonate and certain sulfated, ethoxylated or ethoxylated-propoxylated di- or tristyrylphenols (column 1, lines 63-67).

In contrast to the presently claimed invention, Bramati et al. does not include any reference to potassium chloride, although it specifically exemplifies various materials as optional constituents (please refer to column 3, line 54 to column 4, line 12 of the reference).

Suzuki discloses an invention relating to a water dispersible granule formation containing either the same or different type of active ingredients each having different distribution in the particle size from one to another, which is characterized in that the formulation is produced by mixing and granulating the first active ingredient pulverized under wet milling and the second active ingredient pulverized under dry milling (see claims 1 and 2 of reference). Further, Suzuki discloses an invention relating to a process for producing a water dispersible granule formation in Suzuki claim 8 to read as follows:

"A process for producing a water dispersible granule formulation comprising a step to combine the first active ingredient, a dispersing agent

and water each in a predetermined amount and to pulverize the combined mixture into fine particles under wet milling, a step to combine the second active ingredient, a fine carrier consisting of minerals and a dispersing agent each in a predetermined amount and to pulverize the combined mixture under dry milling and a step to admix the mixture obtained in the wet milling step and the mixture obtained in the dry milling step and to granulate the admixed mixture."

Relative to the second step comprising dry milling, Suzuki refers to potassium chloride in the following description (see paragraph [0034] of reference):

"As examples for the fine carrier consisting of minerals to be combined at the dry milling process, an inorganic salt, such as potassium chloride, calcium carbonate, ammonium sulfate, potassium phosphate and sodium phosphate, diatomaceous earth, bentonite, pyrophilite-type clay and caolinite-type clay may be given, and two or more of the compounds exemplified above may be used in combination as the carrier. (emphasis added)"

Although Suzuki also includes exemplification of dispersing agents (see paragraphs [0032] and [0033]), it does not refer to potassium chloride as a dispersing agent. Specifically, Suzuki only refers to potassium chloride to be combined at the dry milling process. Thus, the reference is not relevant to the invention described in Bramati et al or the presently claimed invention, because the dry milling process is not indispensable for the inventions.

Accordingly, the applicant submits that there is no motivation for a person of ordinary skill in the art to combine the teachings of Suzuki with those of Bramati et al.

There is no suggestion, or reason to try to combine Suzuki with Bramati and thus, the applicant asserts that the combination of reference is not tenable and should be withdrawn.

Further, even if the teachings of Suzuki were combined with those of Bramati, such combined teachings would not result in the presently claimed invention.

The Office Action cites the reference of Nakayama et al., which relates to a liquid herbicide composition containing carfentrazone-ethyl, an anionic surfactant, a water-soluble organic compound and water and having a pH of from 2 to 7 (see claim 1 of reference).

On the other hand, the presently claimed invention relates to a granulated pesticidal composition (i.e. solid composition), and the active ingredients recited in present claim 1 do not include carfentrazone-ethyl.

Accordingly, the applicant submits that Nakayama is not relevant to the claimed invention of the subject application.

As discussed above, claim 1 has been amended to make it commensurate in scope with the demonstration of new and unexpected results shown by Sample 1 in the Rule 132 Declaration filed on July 31, 2009. The applicant further submits that new and unexpected results of the presently claimed invention are also supported by the specific experimental results of Examples 1 to 12 disclosed in the subject specification (please refer to Table 1 on page 21 of the present specification). In particular, the experimental results show that the compositions of the presently claimed invention have excellent

dispersion property, compared with the composition (Comparative Example 2) in which sodium chloride was used in place of potassium chloride.

Additionally, the applicant again asserts the unobviousness of the presently claimed invention in view of the new and unexpected results shown in the second Rule 132 Declaration filed on May 21, 2010.

In view of the present claims reciting a sodium lignosulfonate surfactant, the applicant performed new and specific, experiments comparing the presently claimed invention employing a sodium lignosulfonate surfactant as Sample 1, with a comparative example employing a calcium lignosulfonate surfactant, as Sample 2.

The specific constituents of Sample 1 (present invention) and Sample 2 (comparative example) are set forth in Table 1 of the Declaration and preparation is described, including problems in preparing Sample 2. The resulting samples were tested for self-dispersibility, amount of foam, volume of sediment, sediment dispersion and aggregation. Test results are set forth in Table 3 of this second Rule 132 Declaration.

The results in Table 3 show the superior, new and unexpected effect of the sodium lignosulfonate on dispersibility of granulated pesticidal compositions. In particular, Sample 1 has excellent properties of self-dispersibility, whereas self-dispersibility was not observed at all in Sample 2. Further, the properties of Sample 1 are superior to those of Sample 2 in other assessments: e.g., number of tube inversions required for dispersion in water. Sample 1 exhibits significantly excellent dispersibility,

compared with that of Sample 2. Dispersibility of formulated granules in water is one of most important properties for water-dispersible pesticidal compositions.

Accordingly, the test data set forth in the Rule 132 Declaration filed May 21, 2010, demonstrate the superior, new and unexpected results of the presently claimed invention.

Finally, and importantly, Bramati et al. discloses that among the formulations specifically prepared in Examples 1 to 8, only the formulations using calcium lignosulfonate (i.e. Examples 1, 5, and 7) exhibit good properties. Thus, the applicant asserts that a person of ordinary skill in the art would be led away from the presently claimed invention by the teachings of Bramati and would not use a sodium lignosulfonate in view of the teachings of Bramati et al.

The applicant submits that the presently claimed invention is fully allowable under Section 103(a) in view of the cited references.

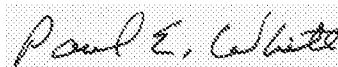
In view of the above, the Rule 132 Declaration filed July 31, 2009 and the Rule 132 Declaration filed May 21, 2010, it is believed that this application is in condition for allowance and a Notice to that effect is respectfully requested.

A sincere effort has been made to amend claim 1 into allowable form in view of the findings of new and unexpected results in the Rule 132 Declaration filed July 31, 2010. If the claims of the application are not considered to be in full condition for allowance, for any reason, the applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP 707.07(j) or in making constructive suggestions pursuant to MPEP

706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,

MANELLI DENISON & SELTER, PLLC



By _____
Paul E. White, Jr.
Reg. No. 32,011
Tel. No.: (202) 261-1050
Fax No.: (202) 887-0336

2000 M Street, N.W.
Seventh Floor
Washington, D.C. 20036-3307
(202) 261-1000